

## Women, Islamic Law and Custom in *Pucuk Induk Undang Nan Limo* Manuscript of Jambi

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### Abstract

The inheritance system within Indonesian society fundamentally intersects with the involvement of customary law and Islamic law. In the Malay Jambi customary society, a Muslim majority society, the inheritance distribution among female and male heirs has diverged from Islamic law provisions. This is evidenced in the manuscript of *Pucuk Induk Undang Nan Limo*. This article examines Islamic inheritance law's norms as depicted in the manuscript and practiced by society. This is doctrinal legal research combined with socio-legal inquiry, with the manuscript of *Pucuk Induk Undang Nan Limo* as the primary source, supplemented by interviews with selected informants. This study finds that, among the Malay Jambi community, daughters receive more inheritance shares than sons. The daughters receive heavy property, while the sons obtain the light ones. With this arrangement, female heirs have more responsibilities, one of them being to provide shelter to their male relatives when they face problems. Furthermore, the daughters cannot independently sell the assets without the permission of their brothers or male relatives.

### Abstrak

Sistem pewarisan dalam masyarakat Indonesia pada dasarnya bersinggungan dengan hukum adat dan hukum Islam. Dalam masyarakat adat Melayu Jambi yang mayoritas beragama Islam, pembagian warisan antara ahli waris perempuan dan laki-laki berbeda dengan ketentuan hukum Islam. Hal ini dibuktikan dalam naskah *Pucuk Induk Undang Nan Limo*. Artikel ini mengkaji norma-norma hukum waris Islam yang digambarkan dalam naskah tersebut dan dipraktikkan oleh masyarakat. Penelitian ini merupakan penelitian hukum doktrinal yang dikombinasikan dengan penelitian sosio-legal, dengan menggunakan naskah *Pucuk Induk Undang Nan Limo* sebagai sumber utama, yang dilengkapi dengan wawancara dengan beberapa informan. Penelitian ini menemukan bahwa, pada masyarakat adat Jambi Melayu, anak perempuan menerima lebih banyak bagian warisan daripada anak laki-laki. Anak perempuan menerima harta warisan yang berat, sedangkan anak laki-laki menerima harta warisan yang ringan. Dengan pengaturan ini, ahli waris perempuan memiliki lebih banyak tanggung jawab, salah satunya adalah menyediakan tempat berlindung bagi kerabat laki-laki ketika mereka menghadapi masalah. Selain itu, anak perempuan tidak dapat secara mandiri menjual aset tanpa izin dari saudara laki-laki atau kerabat laki-laki.

### Keywords:

*Customary; Inheritance; Islamic Law; Manuscript; Pucuk Induk Nan Limo*

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## Introduction

The fundamental values of Islam ensure the existence of a dialectical relationship between Islam and local culture (custom), can be categorized into three patterns: Islamization, indigenization, and negotiation (Suryo, 1993). Islamization is a movement of purifying Islam by radically severing ties with local traditions, thus giving birth to pure Islam. One of the studies focusing on Islamization was conducted by Nakamura in Kotagede in the 1970s (Nakamura, 1983). Indigenization of Islam, on the other hand, is a pattern of liquefying the normative character of Islam into something contextual. This pattern illustrates how Islam, as a normative doctrine originating from God, is accommodated into human-originated culture without losing its respective identity. This, then, gives rise to acculturative Islam. Scholars focusing on acculturative Islam include (Woodward, 1985, Doorn-Harder & Kees De Jonge, 2006; Moller, 2005).

Meanwhile, negotiation between Islam and local culture (custom) occurs when both are in an equal position, resulting in a process of mutual give and take, thereby leading to the integration of elements from religious teachings and local culture. Such dialectical patterns and local culture give rise to syncretic Islam. Several studies examining syncretic Islam have been conducted by various figures, including Clifford Geertz in the book “*Religion of Java*” (C. Geertz, 1960; Hefner, 1985; Beatty, 1996).

The division of inheritance in several regions in Indonesia reflects accommodation between Islamic and customary law. Thus, it allows for coexistence between two legal traditions in a pluralistic and complex state. According to John R. Bowen, applying these laws could potentially lead to competing norms between the three laws: national law, Islamic law, and customary law (Bowen, 2003). Moreover, patterns of inheritance distribution could also be based on agreements that consider the situation and conditions of the heirs or local customs (Khoiri & Muala, 2020).

The customary inheritance division in Jambi becomes an interesting topic in relation to the amalgamation of Jambi’s customary law and Islamic law, especially when it is linked to gender equality issues regarding inheritance divisions between men and women. Changes in the relationship patterns between men and women in modern society or within the smaller scope between husbands and wives in households become one of the focal points. Another factor is the desire to establish a national inheritance law based on a bilateral kinship system that does not differentiate between male and female lines of descent (Sofiani et al., 2024).

The legal principle in Islamic inheritance does not differentiate between men and women; all heirs have equal rights, although there may be differences in male and female divisions (2:1). This is because the principle of inheritance division in Islam emphasizes balanced and proportional justice, rather than equal mathematical justice among heirs. Modernity demands equal roles for men and women in supporting the family’s livelihood, including family economic matters, and also triggers demands for equal inheritance distribution between men and women. The role of women, previously confined to domestic tasks as mere household assistants (*konco wingking*), has shifted in values over time due to changing societal norms (Begum et al, 2024).

Notions of justice have also evolved; in the era of ignorance (*jāhiliyyah*), women were not considered heirs because the kinship system followed a patrilineal system where all property belonged to the husband or men. Because society in the era of ignorance believed that only men could accumulate wealth, all assets became exclusively the property of men. With the advent of Islam, women were granted equal rights (Mulia, 2005).

In this context, Islamic law is demanded to accommodate community issues without sacrificing its fundamental principles. Several Muslim countries, including Indonesia, have reformed their family laws regarding inheritance issues (Kumedi, 2013). Islamic law has three legal products: fatwa, court decisions (jurisprudence), and legislative regulations (Mudzhar, 1991). From a gender perspective, particularly within families, there is a growing demand for access to justice, considering the global discourse on human rights and women's rights. However, in other aspects besides family law, customary law has experienced regression. This is because, according to the views of elites and legal scholars, customary law cannot adapt to the demands of progressive inheritance (Nasution, 2018).

Gender issues in modern society include the shifting roles of men and women. The role of women has changed over time, including within families. Islamic inheritance law is also expected to accommodate society's need for laws that provide justice for women today. Thus, the pattern of inheritance distribution in the Province of Jambi may be based on the local community's customs while adhering to Islamic law's teachings, namely the Quran and Sunnah (Hidayah, 2023).

In line with the current reality, customary law remains a reference for Indonesian society. Customary law is alive among rural communities far from the centers of government facilities and urban communities. According to Hildred Geertz, no matter how modern urban communities in Indonesia may be, there are occasions when they will still revert to old customs, especially concerning marriage, death, and inheritance matters (H. Geertz, 1983).

The rural communities in the Jambi region fundamentally adhere to the principle of bilateral kinship. Therefore, every individual tracing their lineage always connects to the paternal and maternal sides. In other words, the kinship relationship between a child from the paternal and maternal sides is equal. The customary law of Jambi Malay, with the motto "*Malay is Islam, Islam is Malay*," then establishes the "*Induk Undang Pucuk Nan Limo*" as the foundation and guide, as well as the belief, life philosophy, and loyal promise of the people of Jambi. The "*Induk Undang Nan Limo*," known as *junko* adat or *seloko*, encompasses expressions, advice, ethical and moral values, and legal principles adhered to by the Jambi customary society (Armasyah, 2017).

The manuscript of the "*Induk Undang Nan Limo*" has high philosophical values and norms, making its existence a legacy of the Jambi community's ancestors that must be preserved. The manuscript is written in Jawi script (Malay Arabic), while the language used is Malay. The manuscript is handwritten on European paper, partly in narrative form and partly in poetry or rhymes. This manuscript is a singular document; there are no similar copies, and no one has copied it before this research was conducted.

The manuscript's author is Ngebi Sutho Dologo Priyayi Rajo, a nobleman of the twelve ethnicities descended from Kayo Pingai bin Datuk Paduko Berhalo. The "*Induk Undang Nan Limo*" serves as the foundational basis of Jambi customary law, containing the following elements: *titian tereh batanggo batu* (the core path of stone steps), *cermin nan idak kabur* (the clear mirror), *lantak nan idak goyah* (the unwavering hut above the river), *nan idak lapuk keno ujan*, *idak lekang karena panas* (not rotten from rain, not worn out from heat), and *kato seiyo* (the word of agreement).

The authors documented the "*Induk Undang Nan Limo*" manuscript by searching for the physical manuscript and interviewing several respondents from traditional institutions, customary leaders, cultural scholars, community leaders, academics, and the Jambi Malay community to obtain information about the meaning and significance of its contents, both philosophically and textually.

This search was conducted by visiting several traditional figures (older advisors), the Jambi library, and Jambi customary institutions-LAM (Malay Customary Institution). As one of the legacies of Jambi's ancestors and a customary heritage used to guide the Jambi community's life, the "*Induk Undang Nan Limo*" manuscript is stored in the Jambi National Museum, where its condition is well maintained. Therefore, the author only obtained a transliteration through photocopies.

### Structure of Legal Norms in *Pucuk Induk Undang Nan Limo* Manuscript

The structure of Malay customary law, known as "*Pucuk Induk Undang Nan Limo*" from Jambi, is as follows: *titian tereh batanggo batu, cermin gedang dak kabur, lantak dalam dak goyah kaping dak tagensou, kato mufakat, dak lapuk dek hujan dak lekang dek paneih* (Ahmad & Sartika, 2007). The "*Induk Undang Nan Limo*" from Jambi was proclaimed on Thursday, 1 Muharram 920 H - 1502 AD. The custom of *Bapadu Syarak* is the codification of customary law of the Malay Kingdom of Jambi 1502-1906 AD. According to Syarak Nan Limo, customary law's origin is as follows.

The first is *Pucuk Undang*, which is the primary law. *Pucuk Undang Tambang Taliti* is the foundation of the state since *the Black Kayo* became the Malay ruler of Jambi in 1500-1515 AD, established in the RBA Siguntang Tuo Sumai Hill 1502 AD. When the custom is combined with *sharak* (sharia), they are affirmed in the RBA Setinjau Laut Kerinci Hill 1530 AD. This was added by combining "*undang*" with "*taliti*." Thus, they become the source and spirit of Malay customary law, consisting of five main issues mentioned above: *titian teras batanggo batu, cermin gedang dak kabur, lantak dalam dak goyah kaping dak tagensuo, kato mufakat, dak lapuk dek hujan dak lekang dek paneih* (Cholif, 2014).

As explained above, in the past, the Jambi Province was an Islamic kingdom with the motto "Malay is Islam, Islam is Malay." *Pucuk Undang Tambang Taliti* is the foundation of the state, as well as the belief, life philosophy, and loyal promise of the people of Jambi, "as long as adhering to Islam and (they are considered) infidels when (they are) disagree." The philosophy therein contains Allah's and the *Sunnah* of the Prophet, believed and practiced by devout Muslims, testifying that no God but Allah and Muhammad is the messenger of Allah. The people of Jambi swear to implement the *Pucuk Undang Tambang Taliti*, as all Jambi people are Muslims under the banner "custom is based on sharia, and sharia is based on the book of Allah."

The second is *adat nan empat*, or the four customs. These constitute the fundamental law or legislation of the Islamic Malay Kingdom of Jambi. Therefore, to implement the "*Pucuk Undang Tambang Taliti*" as a legal source, foundational laws are established as benchmarks, which consist of, *first*, the "true custom" or *adat yang sebenar* (Djafar, 1992). It denotes legal regulations derived from the *sunnatullāh* (Divine orders) and the *Sunnah* (traditions) of the Prophet. The laws of Allah or Divine orders, as revealed in His verses in the Quran, are referred to as revelations.

Meanwhile, His laws manifested in the universe are known as natural law. Both are practiced concurrently and are beyond human alteration. Some examples include that the sky is above; the earth is below; fire is hot; water has a horizon; the sea waves; the wind blows; objects fall downward; rivers flow from upstream to downstream; earthquakes occur; volcanoes erupt; and landslides happen. All are the manifestations of Allah's laws in nature. Humans cannot alter them. They should be measured against these natural laws in accordance with sound reasoning.

Another example is children being born from parents, which is a divine order, necessitating respect from children towards their parents. Acts such as killing, injuring, stealing, committing adultery, lying, and defamation are prohibited by Allah and His Messenger. Humans cannot alter these prohibitions, even if they collectively agree. Religious prohibitions supersede customary norms. Consuming pork is forbidden by Allah, and even if the global Muslim community collectively agrees to legalize pork consumption, it remains forbidden and sinful to consume it. Established customs are legal norms that have existed since the dawn of humanity and cannot be altered by humans. Furthermore, even though humans may desire to change those stipulations, violating them is punishable. Humans need to follow and obey, as exemplified below (Miswar et al., 2023).

When a child is born from a mother, it is customary for the child to respect the mother and is prohibited from disrespecting the parents. It is customary for the child to address parents as “mother” and “father” and not siblings. A female (*betino*) marrying a male has been a tradition since ancient times. Therefore, it is forbidden to marry a female to another female (*betino samo betino*) or a male to another male (*jantan samo jantan*); such acts are condemned and prohibited by law. Individuals who sell goods are accustomed to handing over the sold items to the buyer, and the buyer is accustomed to paying the price. These rules have been customary since the dawn of humanity and society, and they are known as customary law (Nugroho, 2017).

Customary law results from *kato mufakat* or consensus in all actions, words, and behaviors, which include acknowledgments among humans in villages, hamlets, and nations. That agreement becomes a rule of law with collective agreement. If the agreed-upon rule is unwritten, it is called customary law. If the rule is written, it is referred to as legislation. The agreements made by the community in customary law vary depending on the community's interests, determined by consensus (*kato mufakat*).

For example, in the case of causing minor injuries to another, it is agreed that the punishment is a customary debt (*butaak*). The perpetrator should pay one chicken, one sack of rice, a small piece of iron ore (*kecik babatu gedang babungkal*), a fine of five gold coins (1 gold coin = 2.5 grams) = 5 x 2.5 grams = 12.5 grams x Rp.100,000 = Rp.1,250,000. This implies that minor injuries are punished with one chicken, one sack of rice, Rp.1,250,000, and the injured person receives medical treatment. This is agreed upon and established as customary law.

When an unmarried man and woman become engaged, and the woman cancels the marriage, the gifts (*tando*) received are returned twofold. If the man changes his intention and refuses to marry, the gifts given are forfeited or *meih talucie pulang mandi, tebu setuntung digerman gajah*. This rule is established by mutual agreement (*kato mufakat*). It aligns with the opinion of Imam Maliki: “If the man initiates the cancellation of the engagement, he is not entitled to request any portion of the gifts he has given. However, if the woman initiates the cancellation, the man may request the return of the gifts he has given” (al-Zuhaylī, 2007).

If a wife commits adultery (*zinā*), it is customary to say, “*Ayam betino benci kesangkak buyo telurnyo*” (the female chicken hates the crowing of its eggs). In the event of divorce, she must leave the house wearing a tight garment. She is not entitled to marital property, as all marital property becomes the husband's property. Because the wife has violated the rights of her husband by sleeping with another man, she has relinquished her husband's gold, meaning that the adulterous wife is not entitled to marital property (assets). Also, this is the customary law established by mutual agreement. For customary practices, those who do not engage in such practice are not subject to sanctions (Basri, 2020).

The *Adat Sembilan Pucuk*, or the nine guidelines of customary law. It is found in the area of Sepucuk Jambi Sembilan Lurah. All behaviors of the people of Jambi, Jambi citizens, and Jambi residents, as noble creatures of God, are supported by rights and obligations protected by customary laws. These laws protect the lives of individuals, their bodies, possessions, sexuality, dignity, and self-worth. Matters regulated by the customary law of nine guidelines include laws concerning individuals and families, business contracts, marriages, inheritance, forest land, government, village and hamlets, *undang larik jajou* (population registration), and *undang duo puluh* (twenty crimes regulation).

### **Types of Women in *Pucuk Induk Undang Nan Limo* Manuscript**

*Betino sejati* (a true woman), *betino* who is polite and well-mannered, knows shame. She knows in herself is the wife of her husband, she knows her pride, namely: "*tidak liko dek air hilir, tidak lengah dek kerak jarang, kuku temanis, jari berdarah awak kenyang jugo idak*". It means a woman, who is not preoccupied with useless things, makes her energy runs out without clear results (Fahmy, 2021). *Betino* who always wears *baso basi*, this means, women, who have good manners in speaking and socializing, respect their parents, have obeyed Allah (Sulaiman, 2021). *Betino* who knows *dikorong kampung* knows herself, knows household chores, and is good at sewing and crocheting, "*tahu budi akan terjual, maklum paham akan tergadai, mengerti mano nan mungkin dan mano nan patut, tahu bayang-bayang sepanjang badan*". The true women maintain their dignity and shame, good at keeping promises, and broad knowledge firm faith, fear of God (Fahmy, 2021).

*Betino simarewan* (the wicked woman) is a woman who is as insipid as diluted rice, as murky as swamp water, where she goes, evil follows, with wandering eyes, loving here and there (*betino berpaham seperti pulut encer, pulut khabut, disiko elok situ ketuju, perambang mato, kiun kasih kemari sayang*). This means a woman whose words are bitter, spiteful, envious, mischievous, indulgent in sowing discord, uneducated and mischievous, flirtatious, and so forth. As a result, she can have five children from five men (*limo anak limo laki*).

*Betino rembang tali awan* is a proud woman who boasts about her husband, considers others less fortunate, takes pride in her nobility (*bangga dek bangsawan awak sendiri*), exaggerates her husband's qualities and earnings, likes to visit other people's houses, and speaks ill of others. A woman must remember that life has its ups and downs; if one's life grows with pain, breaking is inevitable; one cannot expect support from anywhere, help from anyone, or relief from any corner. One's fate is like a thousand grains of rice; when the rice is gone, only the husk remains. When the stalk is high, it is prone to be cut. When the stalk is crushed, the dew falls. Remember, the higher the tree, the stronger the wind." (Datuk Raden, 2021).

### **The Position of *Betino* (Women) in *Pucuk Induk Undang Nan Limo* Manuscript**

The manuscript considers women to have equal rights and duties as men. According to Jambi customary law, Jambi women (*betino*) are highly honored individuals who must be protected and looked after. The rights and duties of Jambi women are no different from those of men; thus, Jambi women do not need to fight for women's emancipation rights. If Raden Ajeng Kartini, a Javanese female figure, fought for equal rights and duties for women with men, her struggle was needed in Java. For thousands of years, Javanese women did not have the same rights as men. Still, in Sumatra, there was Cut Nyak Dien from Aceh and Bundo Kandung from Pagaruyung of West Sumatra. Their existence implied equal rights for men and women, especially in the Malay Jambi region.

Since ancient times, women's rights and duties have been the same as men's. Jambi women can hold any position, such as village head, customary leader, *depati*, judge, and *rajo* (king or queen). For example, Princess Kecik Cindai Alus (Sigindo Balak Rajo title) became Depati Pamuncak Alam Serampas (Sekhampeih) Kerinci Rendah "*Secucur air seguling batu*" (clear as water, as hard as a stone). From 1275 to 1350 AD, she was honored as a leader who regulated customs. She became the torchbearer of the community, ruling with the assistance of seven senior leaders: Rajo Depati, Demang Depati, Lukhah Depati, Menjuang Depati, Permato Depati, Pendito Depati, and local dignitaries, high-ranking figures. She possessed a magical weapon, "*sumpit gading badamak ipuh, anak damak pulang pa'i*." She ruled over five villages: Tanjung Kasri Village, Renah Kemumu Village, Rantau Kermas Village, Renah Alai Village, and Dusun Baru Village (Lubuk Mentilin).

Princess Marak was appointed Pulau Tengah Jangkat village head in the 18th century. She led the community, regulated customs, propagated Islam, and built community life based on the principle of "customs in accordance with sharia, Sharia in accordance with the Quran." Princess Selaras Pinang Masak, the daughter of Rajo Bramah, the child of Anang Watman (Dang Tuangku), the child of Adityawarman, the child of Dara Jingga, and the child of Srimat Trayloka Raja Mauli Mawarmadewa (Rajo Melayu Swarnabumi Sumatera) became the Rajo Melayu Jambi from 1460 to 1480 AD. During her time, Islam flourished in Jambi. The first selected land was found in 1460, and the second was found by *Orang Kayo Hitam* and *Mayang Mangurai* in 1501 AD. She was a leader who regulated customs and religion in the "Chosen Land." She became the standard-bearer and pride of the community of *Sepucuk Jambi Sembilan Lurah*, by establishing friendly relations with other countries. During her time, the name Chosen Land was changed to Jambi, and the Jambi region was peaceful and prosperous because she regulated the lives of the people to the best of her ability (Meng, 2006).

Customary law protects *betino* (women) in several ways. An unborn child is considered to exist for as long for the sake of the child's interests. If the child dies during childbirth, it is considered never to have existed. This pertains to the civil rights recognized by Jambi customary law. A pregnant woman is entitled to two shares. If someone catches fish or hunts a deer, she must receive two shares. One for herself and one for the child she is carrying. A woman's life is guaranteed by inherited land. Under customary inheritance law, a daughter inherits "heavy" property, while a son inherits "light" property. Heavy property includes houses and rice fields ready for harvest, fields, and farmland. Light property includes weapons, livestock, money, and titles. The division of inheritance regulated by customary law is intended to protect women if they become old, are left by their husbands, or have no offspring. Jambi women have inherited houses, lands, and gardens. According to custom, Jambi women cannot suffer. A woman or girl is like a fire on the roof (can burn down a house and embarrass the family). Therefore, custom obliges parents and the community to take good care of the girl, educate her, and teach her to behave well. Raping a woman is punishable by death (in the past) and a hundred measures of rice and one buffalo. A woman as someone else's wife is protected by customary law in cases of mistaken accusation (*tunjuk*), palm slapping (*tatepuk telapak tangan*), bamboo clearing (*tagisil miang buluh*), bathing accusations (*tapakai bao mandi*), etc. This means the wife is protected, and one should never fool around with someone else's wife because even a slight mistake can lead to debt (Ridwan, 2019).

### **Unmarried Men and Women in *Pucuk Induk Undang Nan Limo* Manuscript**

*Punyo anak bujang bagai harimau diujung tanjung, punyo anak gadis bagai api dibubungan atap, cemeh bangso nan ditangkap, takut kok rumah nan tabaka, terkejut orang sekampung.* This means that having a son, if improperly raised or educated, can devour someone else's property, bringing shame to the family; similarly, improper upbringing of a

daughter can lead to shame (Cholif, 2019). Therefore, customary law regulates *salah Bujang* and *gadis* as follows.

An unmarried man and woman are prohibited from “*Duduk mengintai kelam, tegak mengintai sunyi*” or “*Tegak duo bagandeng duo di tempat sepi atau gelap.*” This means that men and women who are not *mahram* (permissible for marriage) are not allowed to sit alone in dark and secluded places (Zuhdi, 2019). *Tasalah Bujang dan Gadis*. The manuscript also mentions adultery or *berebut semat* (sleeping together). Unmarried men and women sleep together in the same bed, mattress, or blanket, sharing the same pillow; with a mutual agreement, they are considered “*Beradat tidak beragama jauh*” (uncultured and far from religion). Both are punished under the custom. *Dapat salah (panjing) betino* means that a woman getting pregnant out of wedlock is called “*tapanjing.*” This punishment is applied with several notes. *Ciak hidup*, or if the accused man is alive, then he cannot escape from the accusation or *kena salak anjing batuah*. *Ciak mati* is when the man dies, and the woman is pregnant without any witnesses and is unknown with whom she slept (Zuhdi, 2019).

*Salah bujang kepada gadis*, or a man, is prohibited from hugging, kissing, or touching a woman’s body. If she disapproves of the actions, the man is punishable by custom. *Merompak pantang gadis*, or raping a woman, is forbidden. To force a woman into intercourse is called “*adat sumbing limbago kupak*”. This is punishable under customary law. This means that violating, ignoring, or disregarding customs will result in punishment under customary law (Nurhasanah, 2018).

*Kedaguk rajo (belarian)* is when unmarried men and women come to the house of the customary leader, asking to be married. The woman stays at the house of the customary leader at the man’s expense. This act is considered a disgrace to the parent’s relatives. The elopement committed by the man and woman is punishable under the customary law. The absence of a guardian’s consent in a marriage is not allowed. Suppose the consent is not obtained, and the couple marry in a foreign land. They ignore customs and leap over customary fences by disregarding them. In that case, it is the bachelor who is at fault for not obtaining consent from the maiden’s guardian (Ismail, 2021).

*Mendagi Ninek Mamak Anak keponakan yang kawin dinegeri orang, terjadi mendagi ninek mamak, ibu bapak dihukum, karena awak rajo tidak melarang dan mengasuh anak. Anak sekato bapak, anak berajo ke bapak. Mamak di hukum, salah tidak mengasung ponakan sekato mamak, ponakan berajo ke mamak, kampung malu bak.kampung tidak beradat.*

This means that as an uncle, one must be accountable for one’s nephew because the uncle is considered the head of the household for the nephew. If the uncle fails to fulfill his responsibility, the village will scorn or assume that the uncle is negligent in providing for/caring for his nephew. How can others respect if one is indifferent even to one’s family? (Teti, 2021).

*Sumbang bagi betino dalam bebahaso* in the manuscript of *Pucuk Induk Undang Nan Limo* of Jambi. “*Kato mendaki,*” or high language, is intended for someone with high status, such as parents, teachers, grandparents, older siblings, and others. It is called “*kato ngadah*” or “*kato mendaki*” One must speak politely. Even if he or she is not in a good mood, one must navigate the conversation carefully, and even if the heart is burning from anger, the head must remain calm.

On the other hand, “*kato mendatar*” is a language used by peers. One must respect each other. “Sweet mouth attracts ants, and good character is sought after,” meaning one must be able to socialize with peers, not hurt friends’ feelings. The phrase “remember the branch poking the eye, a sharp tongue hurts” means that one should not harm others because words are sharper



than swords. In other words, there must be mutual respect among peers, and one must not offend the feelings of friends (Shohiburidho, 2021).

The next is *“kato melereng,”* which is a language used to speak to respectable ones. It is not easy to be straightforward when speaking to in-laws, elders, clan members, and relatives by marriage. This means that when speaking to parents or elders, one must always be humble and not talk loudly to them (parents or elders) (Shohiburidho, 2021)

*Sumbang bagi betino dalam tingkah laku* is the contribution to women’s behaviors. The manuscript teaches the ways of eating and drinking. In other words, the customary law teaches the manner of eating ceremoniously to appear polite, unlike a monkey in the jungle (*beruk di rimbo*). Eating, in a ceremony, means eating a mouthful of food in two bites while the third bite fills the stomach. The custom prohibits eating voraciously or drinking in one gulp. It is considered to behave like an animal without shame. The next is the custom of eating together. When eating together, the custom prohibits someone to eat before the elders start or to finish before they finish, youngsters can stop and wash their hands. Another custom is related to peeling a banana.

In the way of sitting on the ground, men should sit cross-legged on the mat, while women should sit with their legs folded. The women should not lift their legs, and their thighs must be covered with clothes. Also, they should not sit with their legs crossed under the chair to maintain decency and cleanliness of the clothing as it symbolizes one status. Furthermore, women should not lift their faces but be respectful and polite if they sit facing men (Noor, 2018). In terms of speaking methods, women are advised not to speak rudely to others or hurt their feelings. It is stated *“Nalai jalan kuto jayo, tegaklah rumah berbatu sendi, kalau tidak pandai berkato, bagaikan alu pencukil duri.”* This means that one should not speak rudely or with foul words that may hurt others’ feelings.

In bathing, women should not bathe naked in public bathhouses. They should wear bathing clothes. It is stated: *“Jangan mandi telanjang, harus pakai kain besahan ditempat umum. Pelak keliki keno benalu, tumbuh kundur ditepi tebat, bila habis raso malu, bagai kayu longga pengebat, membuka aurat, tanda tidak beradat.”* This means not bathing nude in public and always covering *aurah* when leaving the house or facing non-*mahrams* (Ibnu, 2019). Furthermore, men and women should not bathe in one public space, such as a river. The custom equals this practice to animals’ deeds. The manuscript mentions:

*“Kalau sawah beri pematang, kalau ladang beri celak batas mentaro, tanda beradat beragama, kalau tidak ada batas antara laki-laki dan betino, berarti sama dengan hewan.”* (a rice field should be given bundles, a farm should be given a dividing line, symbolizing customs and religion. Without boundaries between men and women, they are the same as animals). This means that in Jambi Malay customs, bathing together, either with the same or opposite sexes, is taboo and prohibited.

Furthermore, when traveling, women should not walk with men who are not their *mahrams*. This means walking with men who are not *mahrams* alone is not good because it raises suspicion and is considered an approaching adultery. In terms of dressing, women should wear appropriate clothes modestly. They should not dress like men and wear tight and thin garments revealing their body curves to others. Besides, women should consider two requirements in socialization, which include clothing and knowledge. Clothing reflects someone’s character, while knowledge is only recognized when she sits and talks (Sadat, 2019)

The manuscript regulates misconduct in uncommendable behavior.

a) the custom teaches mutual respect. It is stated: *“adat mengajarkan sesakit sesenang, sempit lapang melapang, kurang tukuk menukuk, lupu ingat mengingat, jangan orang*

*dipandang hina*. This means, “No one likes to be humiliated, although not everyone likes to be praised.”

b) The custom teaches *tenggang raso* or tolerance. Life ends with death, and people should help each other. It is stated: “*Gedang badan jangan melando, panjang jangan melilit, gedang klaso jangan mendorong, runcing tanduk jangan mengileih, cerdas. Jangan jual kawan, tajembo hendak lepas, talanca hendak lari, tuo dihormati, kecil disayangi, samo gedang bakawan, lemak diawak ketuju dikanti.*” This means one must show good manners towards family, friends, superiors, and parents. People should respect each other, not defame friends, and help others for goodness, as everyone will die. What remains is good deeds (Mamak, 2020)

c) The custom teaches shame. Everyone should feel ashamed. Without shame, one will indeed transgress, acting without considering others. Without shame, society will deteriorate. Shame is a human feeling that prevents wrongdoing. “*Rusak keliki dek benalu, tumbuh serumpun di tengah tebat, rusak negeri hilang malu, bagai kayu longgar pengebat*”. This means that human beings should feel shame. If the shame is lost, then everything will surely deteriorate, even if one can act as one pleases (Mamak, 2020).

d) The custom teaches doing good. Everyone should do good to others, help each other, and bear each other’s burdens, whether climbing hills or descending valleys. One should not ignore others’ difficulties and not laugh when others face misfortune. Allah is a witness to human actions.

e) The custom teaches humility. One should avoid arrogance and conceit. One should respect others no matter who they are. “*Jangan kecak lengan bak lengan, kecak betis bak betis, berjalan di rusuk jalan, tegak bagai hendak membeli, duduk bagai hendak menjual, lonjak bagai labu dibenam geleng bagai cupak hanyut.*” This means that human beings should not be arrogant just because they are wealthy, have power, or are educated. It is stated that “above the sky, there is still sky. In life, one must be humble (Raden, 2021).

### **Customary Inheritance System of Jambi Malay in *Pucuk Induk Undang Nan Limo***

The manuscript divides inheritance property into several types. These are *harto pembawo* or inherited property, *harto tepatan* or entailed property, *harto suarang* or personal property, and *harto sekutu* or shared property. In this custom, the inheritance assets vary depending on the deceased and the amount. The distributions will be based on the types of assets.

*Harto pembawo*, or inherited property, is the property of the deceased brought into the household or the spouse’s house when they married. In other words, this property belongs to the deceased and is earned before marriage. Thus, the deceased is the sole owner of the property. If the deceased does not have children, the property belongs to the family. *Harto tepatan*, or entailed property, is the property entailed by a husband or wife before they marry each other. In the inheritance distribution, this property is called *jangko adat*. It is stated that “*harto tepatan tinggal, harto pembawo kembali, harto suarang dibagi, harto sekutu dibelah panjait sebentuk patah duo.*” This means that the entailed property is the property owned by the wife or husband before they marry each other. This property is not shared property and should not be divided between the two when they separate.

*Harto suarang*, or personal property, is property obtained personally during a marriage that does not result from joint efforts. For example, a wife obtains a ring from her parents, or a husband receives a gift from his boss. This personal property should be separated from shared property. Fourth, *harto sekutu*, or shared property, is the property that the husband and wife

jointly acquire during their marriage. Thus, the property is divided between the deceased and the living. The property of the deceased is divided among the respective heirs.

A testamentary gift is a property that is given by someone to others when during his or her lifetime because of a familial relationship or not. The property should be distributed when the giver passes away. This share should not exceed two-thirds of the total property. If the deceased leaves heirs, one-third of the property should be divided among them. Jambi customary law considers two types of property, with each one having its role and position. These properties include *harto berat* and *harto ringan*. The custom states: “*Harto berat adalah melindungi anak betino agar tidak sengsaro dimasa tuo, baik karna jando atau ditinggal mati suami dan sebagainya. Artinyo, fungsi harta berat adalah melindungi kaum betino agar tidak sengsaro dalam menjalani kehidupan, setelah tuo,*” This means that the heavy property aims to protect daughters to avoid them being miserable in their future, due to being a widow, her husband’s death, or others. Furthermore, the property is to protect daughters and their offspring from suffering in old age.

The heavy property is divided into *harto berat karno zatnyo*, or heavy property, because of its nature, and *harto berat karno fungsinyo*, or heavy property, because of its function. The first is considered heavy as it cannot easily be moved or lifted. An example of this property is farm fields cultivated and turned into shrubs that have yet to be recultivated. Meanwhile, the heavy property is caused by its function, which is the property a male child feels heavy or ashamed to take. This makes the male child hesitate to accept the property. Some examples include jewelry, clothing, home furniture, and decorations. They are somewhat awkward to be taken by a male child (Cholif, 2019).

On the other hand, *the harto ringan (light property) is an object whose nature is light and has a heavy feeling when someone takes it*. Examples include weapons, money, savings, merchandise, livestock, hunting tools, fishing nets, traps, musical instruments like tambourines, offerings, gongs, etc. Another light property is a title or name, such as Raden, Depati, or Rio. Male heirs hold these titles, while female heirs do not. In some cases, women heirs can hold these titles based on their position or through customary deliberation within the family. The title puts the female heir in a respected position.

Furthermore, Jambi customary law acknowledges *hak nan milik* (ownership rights) and *harto nan punyo* (property ownership). *Hak nan milik harto nan punyo* is a traditional *seloko* or expression of a message about inheritance for the Jambi people (Cholif, 2019). This means that women and men are equal in inheritance entitlement. Even women are prioritized when they need it. This does not mean that the practice ignores what is considered *sharak*.

As mentioned, what distinguishes men and women in receiving inheritance lies in the type of property, such as heavy and light property. However, even though women in Jambi Malay customary law get heavy property, women cannot immediately sell the property. They should obtain permission for their sons or brothers. Women or *sanak betino* can only take benefits such as the results of rice fields, gardens, etc. According to *adat lamo pusako usang* (old customs obsolete heirlooms):

“*Alief ado Mim tajadi, bismillah mulonyo qalam, Rasulun min Allah namo ujud, tinggi bahu batimbun bangkai, skuok pinggang telago darah, surut kepada kebenaran, adat bersendi syarak, syarak bersendi kitabullah*” (Rules do not work; all planning starts well with reliance on Allah and the Prophet. Our greatness is supported by others. No matter how strong are the limitations, follow the truth! Customs based on religious law, and the religious law based on the Quran (Cholif, 2019).

According to the Malay Jambi customary law:

“*Waris dijawab dari nan tuo, khalifah dijunjung kato nabi, wariskan adat ke anak kito, barokah untung kito nanti. Kalak dan pukak elok dipasang, muaro Dusun kito mufakat, syarak dan adat elok dipegang keluarga rukun sarugo dapat* (Cholif, 2019)” (inheritance is regulated by the elderly, and leaders must follow the words of the Prophet, pass on rules or customs to children and grandchildren. Blessings and luck will be obtained for the future (SY, 2019).

Immanuddin, one of the Jambi Malay traditional community leaders, stated that: “*seloko hak nan milik harta nan punyo*” is not only an expression of a message for the inherited property but also joint property in marriage brought by each husband and wife (Immanuddin, 2019). The expression is intended for the inherited property by the husband or wife.” *Kato mufakat* or *kato seiyo* means words of agreement, a community law regulating something. For example, in the inheritance law, females get heavy property, and males get light property. Their ancestors agreed upon this. Thus, everything decided by *kato mufakat* (consensus word) is a law or a law born from *kato mufakat*. When the result of *kato mufakat* is written, it becomes law. However, if the result of *kato mufakat* is not written and is followed by others, it is called customary law.

### **Women in Inheritance Distribution of Malay Jambi Customary Law**

In Malay Jambi customs, women become a place to return when a male family member is in trouble. This is one of the reasons why, in the inheritance distribution, women obtain the family house where their parents live, and the family members return and meet. The youngest daughter becomes the guardian of their parent’s inherited house as determined by the customs. This is part of the Jambi Malay people’s traditions, applied without rebuttal or refusal from other heirs. This shows the crucial position of a woman in Malay Jambi inheritance distribution based on *adat*.

Women obtain more inheritance property than men, consisting of *harta berat* (heavy property) and *harta ringan* (light property). On the other hand, men receive only light properties and *harta seko* (title). In the Islamic legal context, the customary tradition of Malay Jambi tends to be contrary to the Islamic way of inheritance distribution. Islam determines that a man and woman share is 2:1, where the man receives more than the woman. In Malay Jambi culture, men and women get similar inheritances.

Giving women heavy property is to be men’s shelter and a place to return when they are in trouble, such as dealing with divorce. In an Islamic legal principle, this practice can be considered *al’ādah al-muḥakkamah*, where customs become laws in a society. Another example is when heirs maintain the estate due to the existing widow of the deceased. They waited until the widow passed to distribute the estate. In this case, the society aims at protecting the women. Still, these practices spark controversies—some other examples are explored below.

### **Gender Equality in Inheritance Distribution**

The discussion of gender equality issues in Islamic inheritance has been inseparable from the history of Islam. The presumption of unfairness in the inheritance distribution has been due to the stipulation of 1:2 shares for men and women heirs. It is asserted that the distribution method is not meant for discrimination but to honor both parties (Umar, 1999).

In Malay Jambi customs, which can be considered an Islamic society, as discussed above, women obtain more shares than men. In other words, this society practices 2:1 shares for women and men. This, however, is not a common practice in Indonesia, even if some places may have a method. Munawir Sjadzali, a former Minister of Religious Affairs, illustrated how

most Indonesian communities prioritized sons over daughters, for example, in education and schooling. In this case, costs spent for the sons were higher than for the daughters. This becomes unfair when, in the end, the sons get more inheritance than the daughters. Furthermore, Sjadzali also considered the practice of *hīlah* practiced by ulama in distributing the properties to all existing offspring as *hibah* or gifts, with similar shares of each one of them (Sjadzali, 1997; Insani et al., 2024).

Nevertheless, Sjadzali's idea has not impacted the general inheritance distribution practices in Indonesia. For Muslims, Indonesian Islamic courts are compliant with Article 176 of the Compilation of Islamic Law, stipulated based on Q.S. al-Nisā [4]: 11, where male children obtain twice as much as female children (Nurlaelawati, 2010). Efforts in *ijtihād* (interpretation of Islamic law through legal reasoning) to propose an “Indonesian model” of inheritance distribution were started by Hazairin, as he saw “unfair” shares for grandchildren of male children and female children (Nakamura, 1983).

Hazairin viewed the existing inheritance distribution model tended to be patrilineal. He proposed the idea that offspring from male or female children should have similar shares. This idea is based on the elimination of the prohibition of exogamy and endogamy in the Quran. In the Batak society of Sumatra, intra-tribal marriage has been prohibited. This means that a man is forbidden from marrying a woman from his tribe. This is also true in Minangkabau society; a man can marry his uncle's daughter but should not marry a woman from his tribe (Soekanto, 2007).

Seeing the concept of bilateral marriage in the Quran, Hazairin argued that the Quran intends for a bilateral society, which means there is no significant difference between men and women. Furthermore, Hazairin proposed the concept of *mawālī* to give equal positions to grandchildren of sons and daughters. Hazairin interpreted the word *mawālī* from the Q.S. al-Nisā' [4]: 33 as heirs. This verse implies that every individual has a *mawālī* as his or her heir (Hazairin, 1981).

### Customary Inheritance Distribution in Indonesian Islamic Courts

Indonesia admits to legal pluralism, which consequently enables customary issues to be brought to the courts. However, most of Malay Jambi's customary inheritance cases brought to the court have been rejected. In fact, Islamic courts have become an alternative legal institution for inheritance disputes when customs or adats fail to solve them. Judges in Islamic Courts refer to the Compilation of Islamic Law and the Indonesia Civil Code or *Burgelitik Wetboek* (BW). These references may not always be effective in solving the disputes. In that case, the customary law becomes another alternative (Hakim, 2023).

In dealing with inheritance disputes, Islamic courts focus on determining the rightful heirs, the estates, and the shares of each heir and implementing the distribution. This is in line with Article 49 (3) of Law No. 7 of 1989 on Religious Adjudication on Inheritance, which also aligns with the KHI. The KHI is based on the agreement of majority or Islamic legal scholars (Nuroniayah & Maula, 2022).

As a concrete implementation of Islamic law, the KHI maintains the principle of 2:1 for men and women inheritance shares. Even if the judges may determine 1:1, most often, the requests to solve the case based on the customary law have been rejected. The KHI does not recognize the classification of estates as heavy and light property as in the Malay Jambi customary law.

The classification of estates can be seen as positioning women as an essential reference in inheritance distribution. This aligns with the literature (*seloko*) of Jambi Melayu, which

states that women have important positions. With more shares, women have more responsibility in the kinship life. In the customary context, this stipulation can be seen as fair according to Islamic and Indonesian law. Fairness comes not from the number of shares but from the responsibility upheld by the recipients (Aziz et al., 2023).

The 2:1 shares for men and women reflect fairness, viewed from the classical Arab context after the *Jāhiliyyah* period. During that era, women's dignity was unrecognized, and they were considered a shameful disgrace to the family. Women were economically inferior and had no rights over private property and inheritance. Moreover, oppression against women was common. Only men were entitled to inheritance shares (Yanggo, 2011).

Haddad compiled at least seven essential achievements of Islam in elevating the dignity of women. Firstly, on the spiritual side, Islam provides equal opportunities for men and women to worship and get closer to Allah (Haddad, 1987). In Islam, the difference in spirituality is not based on gender but on the level of devotion and good deeds of each individual, as affirmed in Q.S. al-Ḥujurāt [49]: 13.42.

Secondly, from the status of occurrence, Islam explains that men and women are created by Allah with equal status, as described in Q.S. al-Nisā' [4]:1. Thirdly, in terms of temptation, both men and women have temptations, as happened in the case of Adam and Eve before being expelled to earth. Fourthly, in terms of humanity, at the beginning of its arrival, Islam immediately abolished traditions that degraded women, such as burying baby girls alive, as explained in Q.S. al-Naḥl [16]: 58.

Fifthly, in terms of property ownership, Islam gives women the same opportunity to spend their wealth as the opportunity given to men, as described in Q.S. al-Nisā' [4]: 32. Lastly, in terms of position before the law, Islam considers men and women to have the same position, especially regarding issues of divorce, adultery, and conjugal relations.

Al-Jabiri (2008) and Abu Zayd (2010) also offers that the interpretation of the Quran should consider the locality during its revelation. According to Abu Zayd, the Quran is the result of communication between God and the first recipient (the Prophet Muhammad) and the target of the conversation (the Arabs) at that time. The gradual process of revelation of the Quran also implies that the Quranic teachings consider the culture and become a model for reality that potentially reforms the idealized culture by changing the existing social and cultural situation. This is where the opportunity to re-read and reinterpret Islamic legal texts. This means that texts are regarded as scientific objects that depart from the dialog between text and reality.

## Conclusion

The customary norms of Jambi in the *Pucuk Induk Undang Nan Limo* manuscript depict gender justice, stating that the positions of men and women are equal, and both have the right to inherit property. The norms of inheritance law in the *Pucuk Induk Undang Nan Limo* manuscript explain that daughters receive heavy property in the division of inheritance. In contrast, sons receive light property, which has been agreed upon through generations.

The phrase "*Hak Nan Milik, Harto Nan Punyo*" explains that both daughters and sons collectively own the property. Daughters can only benefit from the property and cannot sell it without the consent of their brothers or male relatives. Daughters can only enjoy the benefits of agricultural produce from fields and orchards. This provision is different from Islamic legal norms, where if someone owns property, they have the right to dispose of it, including selling it.

The customary inheritance law of Jambi, as found in the *Pucuk Induk Undang Nan Limo* manuscript, contains Islamic values integrated with Quranic verses. Women are honored and prioritized, as reflected in the phrase “*Laki-laki harus baranjau, tunjuk dado bakuto betis,*” which signifies that men should protect women and their families from all kinds of dangers. This phrase shows that in Malay Jambi customary law, women are highly respected and protected as commanded in Islamic teachings.

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