

COMPARISON BETWEEN ISLAMIC LAW AND KARO CUSTOMARY LAW ON INHERITANCE DISTRIBUTION

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Abstrak

Penelitian ini membandingkan hukum waris Islam dan hukum adat Karo serta menganalisis praktik pembagian harta warisan pada masyarakat Karo Muslim di Desa Kutabuluh, Kecamatan Kutabuluh, Kabupaten Karo. Penelitian menggunakan penelitian hukum sosiologis empiris dengan pendekatan kualitatif. Data diperoleh melalui wawancara, observasi tidak terstruktur, dan dokumentasi dengan melibatkan tokoh adat, tokoh agama, ahli waris, dan masyarakat setempat. Informan dipilih secara purposive dan dikembangkan melalui snowball sampling. Data dianalisis melalui reduksi data, penyajian data, dan penarikan serta verifikasi kesimpulan. Hasil penelitian menunjukkan perbedaan mendasar antara kedua sistem. Hukum Islam memberikan hak waris kepada laki-laki dan perempuan berdasarkan ketentuan faraidh, sedangkan adat Karo berlandaskan sistem patrilineal yang mengutamakan laki-laki sebagai penerus marga dan penerima utama warisan. Dalam praktik di Desa Kutabuluh, adat Karo masih dominan. Pembagian dilakukan melalui musyawarah keluarga, sementara bagian perempuan bergantung pada kesepakatan atau kerelaan pihak laki-laki. Dominasi adat dipengaruhi kuatnya tradisi patrilineal, terbatasnya pemahaman faraidh, keinginan mempertahankan marga, dan pertimbangan keharmonisan keluarga. Penelitian menegaskan perlunya penguatan pemahaman hukum waris Islam tanpa mengabaikan mekanisme musyawarah dan nilai sosial masyarakat Karo. Uraian ini tetap mengikuti temuan empiris dan batas data yang

Kata kunci: Hukum Waris Islam, Adat Karo, Pembagian Warisan

Abstract

This study compares Islamic inheritance law and Karo customary law and analyzes inheritance distribution among Karo Muslims in Kutabuluh Village, Kutabuluh District, Karo Regency. It employs empirical sociological legal research with a qualitative approach. Data were collected through interviews, unstructured observation, and documentation involving customary leaders, religious leaders, heirs, and local residents. Informants were selected purposively and expanded through snowball sampling. Data were analyzed through reduction, display, and conclusion drawing and verification. The findings reveal fundamental differences between the two systems. Islamic law recognizes inheritance rights of male and female heirs through faraidh provisions, whereas Karo customary law follows a patrilineal system that prioritizes men as clan successors and principal recipients of inheritance. In Kutabuluh, Karo customary law remains dominant. Distribution is generally negotiated through family deliberation, while women receive shares according to agreement or the willingness of male relatives. This preference is shaped by entrenched patrilineal traditions, limited understanding of Islamic inheritance law, the desire to preserve clan continuity, and concern for family harmony. The study underscores the need to strengthen knowledge of Islamic inheritance principles while respecting deliberative

Keywords: Islamic Inheritance Law, Karo Customary Law, Inheritance Distribution

INTRODUCTION

Inheritance law in Indonesia operates within a plural legal environment in which Islamic law, customary law, and state law coexist and may provide different normative answers to the same family dispute. This plurality is especially visible in inheritance because property transmission is closely connected to religion, kinship, gender, and local identity. Comparative scholarship shows that customary inheritance systems may be patrilineal, matrilineal, or bilateral, while Islamic faraidh establishes legally defined entitlements based on kinship and marital relations (Judiasih & Fakhriah, 2018; Anggraeni, 2023; Muzakir, 2023). Contemporary studies likewise emphasize that legal pluralism does not simply produce formal competition between rules; it shapes how families select, negotiate, and legitimize the norms they consider appropriate when distributing estates (Al-Jafar et al., 2024; Abqori & Sudarmaji, 2026).

The Karo community provides a significant setting for examining this interaction. Karo customary organization is patrilineal, placing the paternal line and the continuation of the merga at the center of family relations. Earlier studies describe sons as principal successors to family property, while daughters historically occupied a more limited position and could receive property through affection, agreement, or changing customary practice (Tarigan, 2014; Sembiring et al., 2016; Sitepu & Susilowati, 2018; Saragih, 2022). More recent scholarship confirms that Karo kinship structures continue to influence the implementation of Islamic inheritance law, even as education, migration, legal awareness, and changing ideas of justice create space for adjustment (Brutu et al., 2023; Pane et al., 2025;

Syahla & Astuti, 2026). Islamic inheritance law differs normatively because it recognizes both male and female heirs and specifies shares through faraidh. The coexistence of these principles with local inheritance practices creates a practical question: which legal order becomes authoritative when a Muslim family is also deeply embedded in Karo customary relations? Studies from other Indonesian communities demonstrate that inheritance decisions often emerge through negotiation rather than the exclusive application of one legal system (Subeitan, 2021; Tarmizi & Zubair, 2023; Syuaib & Ansar, 2025). Such negotiation may preserve family cohesion, yet it can also reproduce unequal access to property when bargaining power is structured by patrilineal authority. Recent analyses therefore call for forms of legal pluralism that maintain cultural legitimacy while safeguarding substantive justice and women's inheritance rights (Yusmita et al., 2025; Jinoto, 2025; Hafis et al., 2026). Research specifically addressing Karo inheritance has established important foundations. Tarigan (2014) showed that Muslim Karo communities continued to rely strongly on customary mechanisms. Sembiring et al. (2016) documented changes in women's inheritance positions associated with jurisprudence and social transformation.

Saragih (2022) examined women's position in Karo customary inheritance, while Aulia et al. (2025) highlighted contestation between customary and Islamic norms in land inheritance in Payung Village. Pane et al. (2025) focused on the influence of Karo kinship structures on Islamic inheritance implementation, and Kaban and Sitepu (2017) discussed customary-land inheritance dispute resolution. These studies demonstrate persistent normative tension, but they do not specifically explain how Muslim families in Kutabuluh Village choose between the two systems in

actual distribution practices and how family deliberation mediates that choice. This study addresses that gap by focusing on Kutabuluh Village as a social setting where Islamic affiliation and Karo customary identity operate simultaneously. Its distinction lies in connecting a doctrinal comparison of Islamic and Karo inheritance principles with empirical accounts from customary leaders, religious figures, heirs, and local residents.

The analysis is not limited to identifying normative differences; it examines how inheritance is actually distributed, how women obtain or negotiate shares, why family deliberation remains central, and what factors make customary law more influential than *faraidh*. This approach is consistent with scholarship that treats legal choice as socially negotiated within plural legal orders (Dongoran et al., 2026; Hidayat et al., 2025). Accordingly, this study aims to compare inheritance distribution under Islamic law and Karo customary law, analyze inheritance practices among Karo Muslims in Kutabuluh Village, and identify factors influencing the selection of legal norms. Its contribution is both empirical

METHOD

This study employed empirical sociological legal research with a qualitative approach to examine the relationship between normative inheritance rules and their implementation among Karo Muslims in Kutabuluh Village, Kutabuluh District, Karo Regency. The research location was selected because Karo customary norms remain influential in family life while the community includes Muslim families whose inheritance obligations are also framed by Islamic law. The study involved four categories of informants: customary leaders who understood Karo inheritance practices, religious leaders with knowledge of Islamic inheritance law, heirs who had directly participated in inheritance distribution, and local residents who knew relevant practices in their community. Informants were initially selected through purposive sampling based on knowledge, experience, social role, direct involvement, willingness to provide information, and communicative ability. Snowball sampling was subsequently used to obtain additional informants through recommendations from earlier participants.

Data were collected through interviews, unstructured observation, and documentation. Interviews used open questions to explore informants' experiences and views concerning Islamic inheritance, Karo customary inheritance, family deliberation, women's inheritance positions, and reasons for selecting particular legal norms. Unstructured observation allowed the researcher to understand social interactions and inheritance-related practices without imposing a rigid observation guide. Documentation was used to support and cross-check field information with relevant written materials and records. The study also drew on legal and scholarly literature concerning *faraidh*, Karo customary law, legal pluralism, and socio-legal analysis. Qualitative data analysis followed the stages of data reduction, data display, and conclusion drawing or verification. Information from interviews, observations, and documents was selected according to the research questions, organized thematically, compared across sources, and interpreted in relation to Islamic inheritance principles and Karo customary norms. Conclusions were verified by comparing

evidence from different data-collection techniques and informants. This procedure enabled the study to preserve the social context of inheritance practices while distinguishing normative

RESULTS AND DISCUSSIONS

The findings show a fundamental difference between Islamic inheritance law and Karo customary inheritance law. Islamic inheritance is grounded in the Qur'an, Hadith, and juristic interpretation and recognizes inheritance rights through kinship and other legally recognized relationships. Male and female heirs are therefore included within a normative system of faraidh, although their shares may differ according to their legal position. In this framework, inheritance rights are not merely dependent on family preference or social recognition but are connected to a predetermined normative structure governing who is entitled to inherit and how the estate should be distributed. Karo customary inheritance, by contrast, is embedded in a patrilineal kinship structure in which the paternal line carries the merge and sons are viewed as successors responsible for maintaining clan continuity and family property. The distinction is therefore not limited to differences in the amount of inheritance received by men and women. It reflects two different foundations for understanding family membership, succession, property, and responsibility. This pattern corresponds with earlier research describing the persistent importance of patrilineal inheritance among Karo communities (Tarigan, 2014; Sembiring et al., 2016; Sitepu & Susilowati, 2018; Saragih, 2022).

Field evidence from Kutabuluh demonstrates that customary law remains more influential than Islamic faraidh in actual inheritance distribution. Informants described sons as the parties who generally control inherited assets and play the dominant role in determining distribution. Karo custom does not establish a uniform numerical share for every heir; outcomes depend substantially on family decisions. Women are not automatically given a share equivalent to an entitlement recognized under Islamic inheritance law. Instead, they may receive property when male relatives agree or voluntarily provide it. This distinction is significant because it reveals a difference between an inheritance right and a property allocation resulting from family consent. Under the customary mechanism described by the informants, the position of women may depend on negotiations with those who possess greater authority over the estate. This confirms that legal authority in practice is mediated through kinship power rather than determined solely by religious affiliation. Comparable studies have found similar tension between patrilineal customary structures and Islamic inheritance rights (Brutu et al., 2023; Pane et al., 2025; Syahla & Astuti, 2026).

The experience of female heirs documented in the thesis illustrates this process clearly. Hairati Perangin-angin and Suhenni Perangin-angin initially did not receive shares because the male side relied on customary rules. They subsequently pursued their interests through prolonged family deliberation. The process ended in an amicable settlement in which the women received land and the parental house that had been occupied with one of the female heirs. Nevertheless, the land received by the women amounted to less than one quarter of the total estate and still had to be divided between them. They also lacked complete information concerning all parcels belonging to the estate. This case demonstrates that the possibility of obtaining inheritance does exist for

women within family negotiation, but the process and outcome remain strongly influenced by the existing patrilineal distribution of authority.

The lack of complete information concerning the estate is particularly important. Inheritance justice does not concern only the final amount of property distributed; it also involves access to information, participation in decision-making, and the ability of each heir to understand the composition of the estate. When some heirs possess greater knowledge and control over inherited property than others, the negotiation process begins from an unequal position. The settlement involving Hairati Perangin-angin and Suhenni Perangin-angin therefore illustrates both the flexibility and the limitations of customary deliberation. Deliberation can create room for accommodation, but its outcome does not necessarily reproduce the distribution prescribed by *faraidh* or guarantee equal access to information. The eventual receipt of property by female heirs should consequently not be interpreted automatically as evidence that the two inheritance systems have become substantively equivalent.

Family deliberation is therefore the central mechanism for resolving inheritance questions in Kutabuluh. Formal litigation is generally avoided because it is perceived as time-consuming, costly, and capable of deepening family estrangement. Informants preferred a familial settlement even when deliberation required considerable time. People knowledgeable about custom may attend and provide views, but the final decision remains primarily with the family, particularly male relatives who control the property. The legitimacy of deliberation derives from its ability to preserve relationships and maintain family acceptance of the settlement. In this sense, inheritance distribution is treated not only as a legal matter concerning individual property rights but also as a social process involving family unity, respect for elders, kinship continuity, and the prevention of open conflict.

This preference resembles wider Indonesian patterns in which inheritance is negotiated through agreement, mediation, or reconciliation rather than strict formal adjudication (Naachy & Latifah, 2022; Al-Jafar et al., 2024; Syuaib & Ansar, 2025). Legal pluralism in this context is therefore experienced as a practical process of selecting and combining normative resources. Families do not necessarily make an explicit theoretical choice between “Islamic law” and “customary law.” Instead, they operate within a social environment where both systems may be recognized but possess different levels of practical authority. Custom often determines the initial distribution framework, while Islamic principles may emerge in discussions concerning fairness, entitlement, or objections from particular heirs. The result can be a negotiated settlement that cannot be classified entirely as *faraidh* or entirely as rigid customary distribution.

The first major factor explaining the dominance of Karo customary law is the strength of inherited cultural authority. Customary rules are familiar, socially recognized, and transmitted across generations. For many families, prioritizing sons is linked not merely to economic preference but to the belief that sons continue the *merga* and carry responsibility for family continuity. The customary rule consequently derives legitimacy from social structure. In a patrilineal setting, inheritance is connected to expectations concerning who remains associated

with the paternal family line and who assumes responsibilities attached to that position. Property distribution therefore has symbolic and social dimensions in addition to its economic meaning. This supports scholarship emphasizing that inheritance systems cannot be understood independently of kinship organization and communal identity (Judiasih & Fakhriah, 2018; Anggraeni, 2023; Hidayat et al., 2025).

In Kutabuluh, following custom is commonly perceived as normal even when the resulting distribution differs from Islamic rules. This normalization helps explain why customary inheritance can remain influential within a Muslim community. Religious identity does not automatically eliminate inherited kinship structures. Individuals may identify strongly with Islam in worship and everyday religious life while continuing to rely on adat for inheritance because it is regarded as the established family practice. The persistence of custom should therefore not be explained simply as deliberate rejection of Islamic law. It is better understood through the social embeddedness of inheritance practices and the fact that customary rules are repeatedly reproduced through actual family decisions.

A second factor is limited understanding of Islamic inheritance law. Field testimony indicates that religious knowledge among many residents is concentrated on everyday worship, while detailed knowledge of faraidh remains limited. Religious leaders are not routinely involved in inheritance distribution, and their role is more visible in general religious activities. Consequently, Islamic inheritance rules have weaker practical authority than customary norms that families encounter continuously. Knowledge becomes important because a legal rule that is formally recognized but insufficiently understood may have little influence over actual decision-making. If heirs do not understand their faraidh rights, cannot calculate inheritance shares, or do not involve individuals capable of explaining Islamic inheritance principles, customary arrangements naturally become the more accessible reference. This finding is consistent with studies showing that the availability of formal Islamic rules does not automatically determine legal choice; knowledge, accessibility, and social legitimacy influence whether those rules are actually used (Subeitan, 2021; Abqori & Sudarmaji, 2026; Dongoran et al., 2026).

A third factor is the priority placed on family harmony. Informants repeatedly associated deliberation with preventing prolonged conflict and preserving kinship. Open disputes were described as relatively uncommon because many community members accept customary expectations, although conflict may arise when heirs have broader educational, migratory, or religious experiences and begin questioning unequal treatment. Family harmony thus operates as both a valuable social objective and a mechanism that can reinforce existing patterns. An heir may prefer compromise over demanding a distribution considered legally correct if pursuing that claim is perceived as threatening family relationships. For female heirs especially, the decision to negotiate rather than confront male relatives may reflect the importance attached to continued kinship relations.

This dynamic is important because it shows that social change may alter legal consciousness without immediately displacing custom. Research on Karo inheritance has likewise identified education, migration, religion, and changing ideas of justice as forces contributing to the

transformation of customary inheritance practices (Sembiring et al., 2016; Kaban & Sitepu, 2017; Aulia et al., 2025). Exposure to alternative legal ideas can make younger or more educated family members increasingly aware that customary expectations are not the only possible basis for inheritance distribution. However, awareness does not automatically produce complete legal transformation. New understandings of rights may instead enter the existing system through negotiation, gradually modifying customary outcomes while leaving the underlying patrilineal structure largely intact.

From the perspective of legal pluralism, the Kutabuluh case should not be reduced to a simple opposition between Islam and adat. The evidence instead reveals an unequal negotiation between two normative orders. Islamic law provides recognized rights for female heirs, while customary law supplies the socially dominant procedure and kinship logic through which property is controlled. Deliberation functions as the bridge between them, allowing some accommodation without necessarily replacing the patrilineal structure. The coexistence of the two systems therefore produces neither complete conflict nor complete integration. What emerges is a negotiated legal practice in which Islamic principles, customary legitimacy, family authority, gender relations, and concerns for social harmony interact in determining actual inheritance outcomes.

The contribution of the Kutabuluh findings lies precisely in demonstrating this gap between normative legal recognition and practical access to inheritance. The central issue is not simply whether women can receive property under Karo custom, because the field evidence shows that they can. The more important question concerns the basis on which they receive it, the process through which they obtain it, the information available to them, and their bargaining position within family deliberation. Female heirs may ultimately receive land or other property, yet this does not necessarily mean that their inheritance rights operate in the same manner as rights established under Islamic *faraidh*. The Kutabuluh case therefore demonstrates that legal pluralism is experienced through everyday negotiations over authority, kinship, gender, religious norms, and family harmony. Custom remains dominant, Islamic law provides an alternative normative reference, and family deliberation becomes the practical arena in which the relationship between the two is continuously negotiated.

CONCLUSIONS

This study concludes that Islamic inheritance law and Karo customary inheritance law differ fundamentally in their normative foundations, kinship orientation, distribution mechanisms, and treatment of male and female heirs. Islamic law recognizes inheritance rights for both men and women through *faraidh*, whereas Karo customary law is shaped by a patrilineal structure that prioritizes sons as successors of the *merga* and principal controllers of family property. Empirical findings from Kutabuluh Village show that Karo customary law remains dominant among Muslim families. Inheritance is generally settled through family deliberation, and women's shares depend largely on agreement or the willingness of male relatives. The documented case demonstrates that deliberation can provide women with land and housing, but the resulting share may remain limited

and access to estate information may be unequal. The persistence of customary law is influenced by strong cultural attachment, patrilineal kinship, limited understanding of Islamic inheritance law, concern for clan continuity, and the desire to preserve family harmony. These findings indicate that harmonization should not be pursued by eliminating customary identity. Instead, religious inheritance literacy, transparency, and inclusive deliberation should be strengthened so that culturally legitimate family settlement can operate alongside clearer recognition of Islamic inheritance rights and substantive justice

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