

Judge's Rejection of Compensation for the Management of Dowry Disputes (Analysis of Decision Number 262/Pdt.G/2022/Pa.Batg)

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Abstract. *This study raises the case of a judge's rejection of a claim for compensation for the management of a dowry dispute at the Bantaeng Religious Court. The case involved a couple who separated after the husband took back the land that had previously been used as dowry. Although the judge decided to return the land to the wife, the judge rejected the wife's claim for compensation for the management of the land. In this context, the rule of Al'adatu Muhakkamah is one of the principles used in determining the law when there is no shar'i evidence that explicitly explains it. This study aims to analyze the judge's decision to refuse compensation for the results of the management of the dowry dispute and analyze the use of the Al'adatul Muhakkamah rule in the decision. The research method used is normative legal research method with a qualitative approach. The qualitative approach was chosen to describe the research results with sentences that categorize the data according to certain categories. With this approach, the research can provide in-depth conclusions about the application of the Al'adatu Muhakkamah rule in the judge's decision. The research findings show that the judge should have granted the compensation claim based on the analysis of the al-'adatul muhakkamah rule. Islamic law aims to realize human welfare, including by recognizing that customs that are still valid for generations have a significant influence in determining legal decisions. However, the main principle of sharia must still be the top priority, especially if there is a conflict between custom and Islamic Law.*

Keywords: *Al'Adatul Muhakkamah; Custom; Dowry; Evidence; Verdict.*

1. Introduction

After the fulfillment of the pillars of marriage consisting of the husband-and-wife candidates, guardians, witnesses, and *ijab* and *qabul*, the next thing that must be fulfilled is the conditions of marriage, one of which is the dowry, which in Indonesian is referred to as *Mas Kawin*.¹ Although marriage is regulated by religion and the state, it is difficult to separate it from long-standing traditions in society.² Adat is a practice commonly applied in an area that is known for its adherence in society, understood by community leaders in dealing with social problems, and passed on to the next generation repeatedly. To gain a solid understanding of the concept of adat, it is important to explore the views expressed by Islamic figures. Muhammad 'Allal al Fasy quotes Tajul 'Arus as saying that adat is a regularly recurring custom, whether permanent or general, followed without knowledge of its rationale.

Dowry, in the Bugis-Makassar customary marriage tradition, is required to be fulfilled by the male party as one of the conditions for the validity of the marriage and is given in the form of money or property by the man to the woman, which in Bugis-Makassar tradition is referred to as sunrang.³

Apart from being a symbol of preparation, the dowry also has a deeper meaning in relation to the husband-wife relationship in Islam. It is a manifestation of the husband's love, respect and responsibility towards his wife. The giving of a dowry symbolically confirms that the husband is committed to providing for his wife and their family to the best of his ability. It also strengthens the emotional and spiritual bond between husband and wife. It reminds both parties of the values of mutual respect, trust and sharing in the marriage relationship. Thus, the provision of dowry not only has material meaning, but also profound in building the foundation of harmony and happiness in the household.

However, the implementation of this custom does not always run smoothly and does not rule out the possibility of polemics because the sunrang given is often a source of conflict between the husband and wife's family when a divorce occurs, so that the children and wife must relent by releasing the item so as not to be trapped

¹ Nasution, I. (2023). *Pedoman Lengkap Fikih Munakahat* (p. p 101). Prenada Media Group.

² Reski Ulul Amri. (2020). Kududukan Doi Menre dalam Perkawinan Suku Bugis di Bone Sulawesi Selatan. *Asy-Syir Ah Jurnal Ilmu Syari Ah Dan Hukum*, 54(1), 83–83. <https://doi.org/10.14421/ajish.v54i1.544>

³ Appe, R. M. (2021). Perlindungan Hukum Hak-Hak Isteri Atas Tanah Sebagai Mahar Dalam Perkawinan. *Indonesia Journal of Criminal Law*, 3(1), p 66.

in a protracted dispute.⁴ Whereas Allah has said in QS. An-Nisa verse 19:

«... وَلَا تَعْضَلُوهُمْ لِيُدْهَبُوا بِبَعْضِ مَا آتَيْتُمُوهُمْ إِلَّا أَنْ يَأْتِيَنَّ بِقَاحِشَةٍ مُبَيَّنَةٍ....»

"... and do not trouble them in order to take back some of what you have given them, except when they have done manifestly abominable deeds".

The above verse clearly states that the goods given as dowry by a man to his wife belong to the wife in full. There is no ownership right over the goods owned by the husband or other parties, either while still together or after separation.

Among the irregularities that occurred was a case where the dowry that had been given by the husband to his wife was known to be taken back after the divorce occurred. This case is contained in the Bantaeng Religious Court Decision Number 262/Pdt.G/2022/Pa.Batg. In the sitting of the case, there was a couple who had married in 2017 with a dowry in the form of a plot of land. But a year later they divorced. However, the land was later taken back by the husband, while the wife failed to regain ownership of the land despite making a request. Not only that, during the period 2018 - 2022, the husband also never gave the proceeds from the management of the land to the wife. Then the wife filed a lawsuit at the Bantaeng Religious Court with several demands, including demanding the return of the land, and demanding compensation for the results of managing the land for 4 years. In the legal balance, the judge granted the return of the land to the wife, but the judge rejected the wife's demand for the husband to pay compensation for the management of the land.

Analysis of the legality of Bantaeng Religious Court Decision Number 262/Pdt.G/2022/Pa.Batg is also a significant aspect of this research. A deep understanding of the legality of this decision is needed to measure the extent to which its implementation can be recognized and accepted by the community. Thus, the background of this research is formed from the complexity of the problems in the judge's rejection of compensation for the management of dowry disputes. This phenomenon not only reflects the distinctiveness of Bantaeng society but also offers greater insight into issues of marriage and Islamic law at the local level.

This study focuses on the legal issues at the center of the research. One of the main issues is the potential conflict between the customary practice of sunrang and the

⁴ Nurlia, N., & Nurasiah, N. (2017). SUNRANG TANAH SEBAGAI MAHAR UNTUK MENINGKATKAN IDENTITAS DIRI PEREMPUAN DALAM PERKAWINAN BUGIS MAKASSAR. *Jurnal Dakwah Tabligh*, 18(1), 1–16. <https://doi.org/10.24252/jdt.v18i1.2861>

provisions of positive law and Islamic law in the context of dowry disputes at the Bantaeng Religious Court. This research also highlights how the rule of *Al'adatul Muhakkamah* was applied in the judge's decision and how this influenced the decision regarding compensation for the management of the dowry dispute. In addition, this research examines the legality of Bantaeng Religious Court Decision Number 262/Pdt.G/2022/Pa.Batg, as well as its implications for the recognition and acceptance of customary practices in the formal legal system.

The initial hypothesis is that the judge's rejection of a claim for compensation in a dowry dispute case at the Bantaeng Religious Court, based on Decision Number 262/Pdt.G/2022/Pa.Batg, reflects the complex interaction between customary law, Islamic law and positive law in Indonesia. The sunrang tradition, which is a dowry gift in Bugis-Makassar society, plays an important role in marriage and symbolizes respect for custom. However, this practice often leads to conflict when divorce occurs, particularly regarding the management and return of the dowry. In the decision, the judge rejected the wife's claim for compensation, indicating that the rule of *Al-Adatul Muhakkamah* was taken into consideration. This shows that although formal law and Islamic law in Indonesia emphasize the protection of individual rights, local customs are still recognized in the judicial process, as long as they do not conflict with higher legal principles.

This research aims to analyze the potential conflict between the customary practice of sunrang and the provisions of positive law and Islamic law in the context of dowry disputes at the Bantaeng Religious Court. This research also aims to provide a deeper understanding of the dynamics of the relationship between formal law and local customs, as well as enrich legal literature with new perspectives in dealing with the complexity of legal plurality in society. In addition, this research aims to provide practical guidance for resolving cases of judges' refusal of compensation in dowry disputes, by providing a better understanding of recognized customary law and how it affects legal decisions. Another objective is to produce legal recommendations that can be used by legal practitioners, judges and related parties in handling similar cases in the future, so as to improve the fairness and effectiveness of the legal system. As such, this research aims to provide deep theoretical insights and have significant practical implications.

2. Research Methods

The method applied in this article is a qualitative approach in normative legal research, namely research that emphasizes the analysis of legal doctrine, which aims to identify legal principles, legal norms, and legal doctrines such as the Compilation

of Islamic Law, Law, HIR / RBG, and *Kaidah Al-'adatul Muhakkamah* in answering the legal problems being studied.⁵ Qualitative research is a type of research that focuses on understanding phenomena based on the subjective perspectives of the participants and uses inductive data. With a qualitative approach, this research aims to provide conclusions about the application of the *Al'adatul Muhakkamah* rule in the judge's decision to reject the wife's compensation claim for the results of land management of the dowry dispute, by linking it to the perspective of sunrang customs.⁶ The initial step in this research is to formulate the research problem clearly and conduct an in-depth reading of the relevant court decisions to understand the context and details of the case to be analyzed.⁷ After that, reading materials that support the research to analyze the decision and studying the applicable regulations that are the basis for analyzing court decisions so as to explore the relationship between relevant regulations and the issue being studied.

3. Results and Discussion

3.1 Analysis of the Judge's Rejection of the Claim for Compensation for the Management of Dowry Dispute Results

According to Article 2 of Law No. 3 of 2006 amending Law No. 7 of 1989, Religious Courts are one component of the judicial system that provides services to citizens who adhere to the Islamic religion in the settlement of certain cases in accordance with the provisions of this law.⁸ According to Article 54 of the Religious Courts Law, evidence accepted in legal proceedings in religious courts is similar to that used in legal proceedings in general courts for civil matters, which are described in Articles 164 HIR, 284 RBG, and Article 1866 of the Civil Code. The means of evidence include letters, testimony, presumptions, confessions, and oaths. Everything that can be used to prove is the meaning of evidence.⁹

⁵ Efendi, J., & Rijadi, P. (2022). *Metode Penelitian Hukum Normatif dan Empiris* (p. p 124). Kencana.

⁶ Adlini, M. N., Dinda, A. H., Yulinda, S., Chotimah, O., & Merliyana, S. J. (2022). Metode Penelitian Kualitatif Studi Pustaka. *Edumaspul: Jurnal Pendidikan*, 6(1), 974–980. <https://doi.org/10.33487/edumaspul.v6i1.3394>

⁷ Askin, Moh., & Masidin. (2023). *Penelitian Hukum Normatif: Analisis Putusan Hakim* (p. p 141). Kencana.

⁸ Online, H. (n.d.). *Undang-Undang Nomor 3 Tahun 2006 - Pusat Data Hukumonline*. Hukumonline.com. Retrieved July 6, 2024, from <https://www.hukumonline.com/pusatdata/detail/25602/uu-no-3-tahun-2006-perubahan-atas-undang-undang-nomor-7-tahun-1989-tentang-peradilan-agama>.

⁹ Yusandy, T. (2019). Kedudukan dan Kekuatan Pembuktian Alat Bukti Elektronik dalam Hukum Acara Perdata Indonesia. *Jurnal Serambi Akademika*, 7(5), 645. <https://doi.org/10.32672/jsa.v7i5.1522>

The crucial thing in the evidentiary stage in court is the use of evidence. Each party involved must present evidence that supports their claims or arguments. Without adequate evidence, the plaintiff's claim will not be accepted. This is stipulated in Article 163 of the Law of Civil Procedure (HIR), Article 283 of the Criminal Code (KUHP), and Article 1865 of the Civil Code (KUHPperdata), which mandate that any individual who claims to have a right or wishes to validate his or her own right, or who denies another's claim of right by reference to an event, must provide evidence that validates the claim or event. Thus, proof is crucial in upholding justice in the legal system, and the existence of evidence becomes a strong foundation in determining the judge's decision.¹⁰

After researching that decision no 262/Pdt.G/2022/PA.Batg regarding the lawsuit of the rights and obligations of husband and wife, in the lawsuit demanding rights to the dowry dispute in the form of compensation for the results of the management of the dowry. However, the main challenge here is how the plaintiff can prove his claim. Written documents that have been legalized by the plaintiff in accordance with the original version, meet the formal requirements as valid evidence, in accordance with the provisions of Article 5 of Law Number 10 of 2020 concerning Stamp Duty.

In terms of proving the results of the management of the dowry since 2018 for 4 years and 5 months, the judge considered that the defendant could not present any evidence. In fact, the testimony of witness 4, Syamsidar binti Jumalang, stated that the dowry agreed upon during the marriage of the plaintiff and the defendant was a piece of garden land. This land is currently under the control of the respondent and his parents and as far as the witness knows the dowry is planted with vegetables. There was testimony from the claimants from individuals who were close to them, and had knowledge of the situation of both the claimants and the respondent, as well as their children. They also had no legal disability to testify, and their testimonies were given under oath. Therefore, all testimony presented before the court is admissible based on the provisions of Article 308 paragraph 1 RBg. Therefore, in terms of proving that the plaintiff's dowry land was managed by the defendant, one piece of evidence has been fulfilled.¹¹

Local inspection as a form of evidence in cases, aims to precisely and definitively understand the location, size, and boundaries of the goods that are the subject of

¹⁰ Azhar, F., Rahman, S., & Khalid, H. (2021). Analisis Hukum Tentang Kekuatan Pembuktian Pada Perkara Perdata. *Qawanin Jurnal Ilmu Hukum*, 1(1), p 83.

¹¹ Editorial. (2022, March 3). *Pasal 175 RBg (Recht Reglement voor de Buitengewesten)*. <https://cekhukum.com/pasal-175-rbg-recht-reglement-voor-de-buitengewesten>

the dispute, or to precisely and definitively understand the quantity and quality of the goods in dispute, if they can be measured in quantity and quality.¹² The significance of the local inspection is not only reflected in the results used to influence the decision, but also plays a crucial role in various aspects and proceedings. One of them is the assurance about the size, limit and type of the goods. Then, the steps in determining confiscation. Third, the process of execution or auction. Finally, the social and psychological factors of the people involved. Sometimes, the object of conflict can change due to various factors, both natural and social. Not all civil cases allow for the use of local inspection as evidence. However, there are certain civil cases that allow local examination as a method of proof, especially those relating to land, paddy fields, yards, and the like.

Local examination, as stipulated in Article 153 (1) HIR, Article 180 (1) RBg, and Article 211 Rv, is a procedure of direct inspection of the scene or location related to a case being processed. In the context of its use as testimony in a trial, the results of a local inspection have significant value. As a trial fact, information obtained from a local inspection can be an important ingredient in formulating the judge's arguments or considerations in deciding a case. This is because the local examination allows the judge to get a direct picture of the circumstances that are the subject of the dispute. The decision to use the results of the local examination as a consideration in rendering a decision is entirely up to the discretion of each Panel of Judges handling the case.

Although in the trial, the facts revealed have the same value as the results of the local inspection, the judge has the freedom to assess the evidentiary strength of the information obtained from the inspection. The results of the local examination can therefore be one of the factors considered in the judge's decision-making process, but the final decision still depends on the overall evidence in the case and the judge's assessment of it.¹³ It is therefore important for the parties to ensure that the local inspection is conducted carefully and that all relevant information is

¹² Kandou, R. M. F., Mamesah, E. L., & Sepang, R. (2023). PELAKSANAAN PEMERIKSAAN SETEMPAT SEBAGAI BAHAN PERTIMBANGAN HAKIM DALAM MEMUTUS PERKARA PERDATA. *LEX ADMINISTRATUM*, 11(5).

<https://ejournal.unsrat.ac.id/v3/index.php/administratum/article/view/50929>

¹³ Direktorat Jenderal Kekayaan Negara. (2021). *Pemeriksaan Setempat (descente) Dalam Hukum Pembuktian Perkara Perdata*. Kemenkeu.go.id. <https://www.djkn.kemenkeu.go.id/artikel/baca/14309/Pemeriksaan-Setempat-descente-Dalam-Hukum-Pembuktian-Perkara-Perdata.html>.

obtained and properly considered by the judge.¹⁴

The judge argued regarding the local inspection, that the evidence was not used as the main means of proof, but as a support in strengthening the conclusions drawn at trial. In the on-site examination, witnesses were also examined because basically the examination at the scene is a trial, so additional evidence can be in the form of the minutes of the local examination itself.

In addition, this decision was also made by way of a verdict. In situations where the defendant does not attend the trial or is absent (*verstek*), based on Article 125 paragraph (1) HIR, if during three summonses the defendant remains absent and does not send a representative, the judge will give a decision by *verstek*.¹⁵ In making this decision, there is no need for an evidentiary process. The judge only needs to assess whether the plaintiff's claim is contrary to the law or not, on the grounds that *ex officio* the judge is considered to know the events that occurred, so no additional evidence is required.

Such events are known as *notoir* events or generally known. It is already widely known in the community so it does not require additional proof.¹⁶ The majority of the population of Bantaeng Regency is Makassarese. The concept of land ownership in Bugis-Makassar culture is followed by the granting of land to women in marriage. Thus, gifts are the origin of land ownership as dowry. The custom at a particular time of giving an area of land is directly related to the origin of the purchase. For example, the sign that the land belongs to the woman is to give the land as dowry to the woman. Once the land is owned by a woman, the responsibility for the land will rest with the owner, and will no longer be governed by the husband or the husband's family without the consent of the wife.¹⁷

As explained earlier, giving a dowry aims to compensate a woman for the loss of a family member. Bugis-Makassar custom dictates that land ownership belongs to the woman and is generally managed with her husband. According to customary

¹⁴ Ambarita, M. (2021). Kekuatan Pembuktian Pemeriksaan Setempat (*Gerechtelijke Plaatsopneming*) Dalam Pemeriksaan Sengketa Perdata. *Jurnal Legislasi Indonesia*, 18(3), p 390.

¹⁵ SH., MH, M. (2017). Putusan *Verstek* dalam Hukum Acara Perdata. *JURNAL MERCATORIA*, 10(2), 160. <https://doi.org/10.31289/mercatoria.v10i2.1153>

¹⁶ Sundari, E., & Widiastiani, N. S. (2019). PERKEMBANGAN PEMBUKTIAN PADA PUTUSAN *VERSTEK*: STUDI KASUS DI PENGADILAN NEGERI SLEMAN DAN KOTA YOGYAKARTA. *Justitia et Pax*, 35(2). <https://doi.org/10.24002/jep.v35i2.2936>

¹⁷ Said, N. (2002). *Tanah Sebagai Mahar dalam Perkawinan Studi Kasus Perempuan Suku Bugis-Makassar di Sulawesi Selatan yang Menerima Tanah Pada Waktu Menikah* [Tesis]. <https://lib.ui.ac.id/detail?id=73370&lokasi=lokal>.

tradition, ownership of the land reverts to the original purpose of giving it to the wife as a dowry/gift from the husband-to-be. This signified the husband's responsibility towards his wife and also an appreciation of the identity and honor of a woman entering marriage. The land symbolizes a destination for the wife after marriage, as a step towards forming a new family after being released by her parents.

3.2 Analysis of the Rule of *Al'Adatul Muhakkamah* Against the Practice of Sunrang

Customs and traditions play an important role in shaping and developing the Islamic legal system. The various schools of law in history are not only caused by internal factors, but also influenced by the customs and traditions prevailing in the local community.¹⁸ Imam Abu Hanifah often paid attention to the customs or habits prevailing in Iraqi society when determining the law. Imam Malik was heavily influenced by the practices and customs of the scholars of Medina. Imam as-Shafi'i had a traditional view when he was in Baghdad (*qaul qadim*), which changed to a more recent view when he moved to Egypt (*qaul jadid*), this happened because of differences in culture or traditions in the two places.

This research discusses the main rules in *Qawa'id Fiqhiyah*, especially *Al'-adatul Muhakkamah*, which are based on local traditions and knowledge applied in various societies, where these traditions are consistently practiced without rejection from members of the community.¹⁹ The words *al'-adat* and *al-'Urf* are two terms related to custom in Arabic.²⁰ Custom in terminology is all that is familiar to humans, and therefore becomes a habit that they do in their lives, both in the form of words and actions.

Al-Suyûthî states that many Islamic legal issues are related to this rule, such as determining the age of menstruation, the duration of chastity and menstruation, the age of puberty, the duration of the postpartum period, the rules regarding the order in ablution, the interval between offer and acceptance, the issue of entrustment, the use of rental property, the provisions of food that can be served to guests, the security of property in storage related to theft, and the acceptance of gifts for judges.

¹⁸ Ibrahim, D. (2019). *AL-QAWA'ID AL-FIQHIYAH (KAIDAH-KAIDAH FIQIH)*. Noer Fikih.

¹⁹ Mahfudhi, H., & Arrosid, M. K. (2021). TEORI ADAT DALAM QOWAID FIQHIYAH DAN PENERAPANYA DALAM HUKUM KELUARGA ISLAM. *Familia: Jurnal Hukum Keluarga*, 2(2), 119–136. <https://doi.org/10.24239/familia.v2i2.28>

²⁰ Azhari, F. (2015). Qawaid Fiqhiyyah Muamalah. In *Banjarmasin: Lembaga Pemberdayaan Kualitas Ummat*. (p. p 118.).

Al'Adatul Muhakkamah is defined by Sudirman Suparmin as a legal system that establishes laws based on customs prevailing in society. Good habits that develop in the community are used as the basis for formulating laws that are in line with the social values adopted.²¹

In addition, various actions and expressions, which are ways for people to socialize with each other, are also included in adat. This includes the etiquette of speech, social manners and ways of acting in various social situations. Overall, this definition of adat emphasizes the importance of the experiences, practices and norms that develop in people's lives as the foundation for the customs and culture that characterize a human group or community.

Meanwhile, *'Urf* is a concept of norms or habits that are recognized and applied in human daily life. *'Urf* is a reflection of practices that have become a necessary part of the social and cultural life of a society.²² First of all, *'urf* encompasses what has been recognized by humans, which indicates that these norms have accumulated from collective experiences involving social interaction and daily life. These norms may develop from generations of tradition, historical experience, or cultural developments that are gradually accepted by society.²³

Some religious scholars separate tradition (adat) from custom (*'Urf*). Among these scholars is Al-Jurjani, who said that *'Urf* is not only determined based on accepted customs, but must also have a basis in human reason. Meanwhile, something called adat must not only make sense, but also have become a tradition that continues to be practiced by humans in their group.

This rule of *Al'adatul Muhakkamah* means that in determining the law where no *shara'* evidence is found, the law can be determined by using tradition as a basis. However, not all customs can be the basis of law. Even before the arrival of the Prophet Muhammad, people in Arabia, other regions, and Indonesia had traditions and customs that had existed for a long time. Customs in a culture are composed of values that are known, understood, respected and practiced by the collective

²¹ Suparmin, S. (2021). Al-Mashlahah: Jurnal Hukum Islam dan Pranata Sosial Islam. *Al-Adatu Al-Muhakkamah in the Traditional Menukur of Culture*, 9(2). <https://doi.org/doi.org/10.30868/am.v9i02.3212>.

²² v, M. T., Marwing, A., & Syamsudin. (2020). *Realitas 'Urf Dalam Reaktualisasi Pembaruan Hukum Islam Di Indonesia* (p. p 18). Duta Media Publishing.

²³ Marwing, A. (2020). REALITAS URF DALAM REAKTUALISASI PEMBARUAN HUKUM ISLAM DI INDONESIA. In *repository.iainpalopo.ac.id*. Duta Media Publishing. <http://repository.iainpalopo.ac.id/id/eprint/1846/>

consciousness of the community.²⁴ Fundamentally, these rules stem from an understanding of the social reality of society, where all ways and patterns of life are influenced by values that are considered established norms from the past. As a result, the community forms a unique pattern of life based on the values they have embraced together.

As previously described, sunrang is a form of dowry or mascawin found in traditional Bugis marriages. One of the processes that must be passed before marriage in Bugis culture, is the prospective groom giving panai money as a sign of appreciation to the prospective bride. Self-esteem and dignity are values that are firmly guarded by the Bugis community, so the amount of panai money is determined by several factors, such as physical condition, family social status, and the level of education of the prospective bride.²⁵

So there are several branch rules of *Al'adatul Muhakkamah* in viewing and analyzing this custom.

Among them is the rule that reads:

كُلُّ مَا وَرَدَ بِهِ الشَّرْعُ مُطْلَقًا وَلَا ضَابِطَ لَهُ فِيهِ وَلَا اللَّغَةَ يُرْجَعُ فِيهِ إِلَى الْعُرْفِ

"Any ruling that is established by Shariah as a whole, without exception in religion or in grammar, its provisions are returned to custom ('Urf)".

From this rule, it is understood that in situations where the Sharia does not provide certain restrictions or provisions, without any restrictions on the language used, the customs or customs prevailing in the community will be a guide to determine the application or interpretation of the law. *Al'adatul Muhakkamah* views sunrang as legitimate and recognized in Bugis and Makassar marriage customs. This is because sunrang does not contradict Islamic law, and has no value limit because at the beginning of the process of giving it, the tappu kana process must be carried out, which is a discussion between the male and female parties regarding the agreement on the dowry to be given.²⁶ Article 30 of the Compilation of Islamic Law also states

²⁴ Rohim, M. (2019). *Buku Ajar Qawa'id Fiqhiyyah (Inspirasi Dan Dasar Penetapan Hukum)*, ed. oleh Ahmad Ali Mashudi (p. p 118). LPPM UNHAS Y Tebuireng Jombang.

²⁵ Fitriyani, F. (2022). Multicomplex Uang Panai' terhadap Perempuan dalam Perkawinan Keluarga Muslim Suku Bugis. *Tasyri' : Journal of Islamic Law*, 1(2), 195–214. <https://doi.org/10.53038/tsyr.v1i2.37>

²⁶ Karman. (2022). *Sunrang Dalam Perkawinan Adat Masyarakat Bungayya Desa Pa'jukukang Kecamatan Pa'jukukang Kabupaten Bantaeng* (p. p 14) [Skripsi].

that the form and type of dowry to be given must be through mutual agreement between the male and female parties, and this is in line with the above statement.²⁷

In addition, the existence of sunrang, which is still valid for generations, can also be taken into consideration in determining legal rules. This is in line with the rule:

إِنَّمَا تُعْتَبَرُ الْعَادَةُ إِذَا اضْطَرَّتْ أَوْ غَلَبَتْ

"The law only recognizes customs that have been continuous or common as the basis for its determination".

This rule emphasizes the importance of the continuity and prevalence of custom in establishing legal rules. This reflects the principle that customs that are still valid for generations have greater weight in determining the law than new or less common customs.

Based on the above rule, customs that have been practiced for generations, agreed upon by a large number of people, and become a general rule, can be used as legal guidelines. This emphasizes the importance of considering customs that have been in place for generations in the legal decision-making process. Community involvement in this process is important because understanding and recognizing the values and traditions of the community can make legal decisions more acceptable and respected by those involved. So, in the Religious Courts, judges should decide based on this rule. This has implications for giving the plaintiff a share of the income generated by the defendant from the management of the land.

If in determining the law no source is found in KHI and the 1974 Law, the judge can make *ijtihad* with other sources of law, such as *Qawa'id Fiqhiyyah*. This highlights the importance of recognizing and respecting customary values in the legal system and provides a basis for making legal decisions that are fairer and in accordance with the context of the community concerned. Similarly, in this case, when the rules of material law do not cover the situation, judges can consider custom as one of the criteria to be considered in determining legal decisions, especially *Al-'adatul Muhakkamah* which refers to the established custom of sunrang practiced by the community. Therefore, in the context of crop sharing, the defendant who no longer has rights over the land must still provide a share of the crop to the landowner, as is customary in land management contracts.

²⁷ Kementerian Agama Republik Indonesia. (2018). *Kompilasi Hukum Islam Di Indonesia* (p. p 17). Direktorat Bina KUA dan Keluarga Sakinah.

In the case where the plaintiff was the landowner and the defendant was the manager of the land, even though the defendant did not directly pay rent to the plaintiff, he was still responsible for managing the land properly. The proceeds from the management of the land are a substitute for the rent that the defendant should have given to the plaintiff. Therefore, in this case, the plaintiff was entitled to a share of the proceeds of the land management as the landowner.

The purpose of Islamic law is to achieve good for human beings both in this world and in the hereafter. With this foundation, all issues that contradict the principles of justice and lead to fraudulent actions, from mercy to difficulty, and from benefit to harm, are considered incompatible with the teachings of shari'ah and Islamic law. The changing times in situations, conditions, and times show that some previously established laws are no longer relevant for today, even for the future. In this situation, the laws that were first made by the mujtahids based on custom ('*Urf*), will change along with the change in custom itself. In addition, there are many new issues that arise in the lives of Muslims that pose challenges that also need to be addressed by finding solutions.

Dowry plays an important role in the marriage relationship. The dowry itself is the payment of a valuable asset for the purpose of establishing the bond of marriage.²⁸ The law of dowry is obligatory because it is a condition of marriage.²⁹ The evidence for the provision of dowry is found in the words of Allah SWT in Al-Qur'an Surah An-Nisa verse 4:³⁰

وَأْتُوا النِّسَاءَ صَدُقَاتِهِنَّ نِحْلَةً

"Give the bride price (dowry) to the woman (whom you marry) as a willing gift....".

The dowry is considered a symbol of the responsibility and contribution expected from the husband-to-be as the support of the family in marriage, reflecting his sense of responsibility as a husband.³¹

Consideration of customs that are still valid for generations has important

²⁸ Zaenal Arifin, M. (2012). *Fiqh Perempuan* (p. p 83). Zaman.

²⁹ Surya Putra, F. (2021). Urgensi dan Kedudukan Shodaq (Mahar) dalam Pernikahan. *Jurnal An-Nahl*, 8(2), 78–90. <https://doi.org/10.54576/annahl.v8i2.33>

³⁰ Kafi, Abd. (2020). MAHAR PERNIKAHAN DALAM PANDANGAN HUKUM DAN PENDIDIKAN ISLAM. *PARAMUROBI: JURNAL PENDIDIKAN AGAMA ISLAM*, 3(1), 55–62. <https://doi.org/10.32699/paramurobi.v3i1.1436>

³¹ Kaharuddin. (2015). *Nilai-Nilai Filosofi Perkawinan* (p. p 201). Mitra Wacana Media.

implications in the context of Islamic law. This is because Islamic law gives great respect to long-standing customs and traditions in society. Significant value and authority in establishing law is believed to be attached to customs that have been an integral part of community life for generations. By taking into account customs that have been in place for generations, Islamic jurists can ensure that legal decisions are not only based on the principles of sharia, but also take into account the social and cultural realities of the communities involved. This demonstrates the flexibility in the Islamic legal system that allows for adaptation to changing times and circumstances without compromising the fundamental principles of sharia.

In addition, the rule of *Al'adatul Muhakkamah* provides invaluable guidance in interpreting the law, especially in situations where the shari'ah does not provide specific provisions. This provides a basis for judges to consider relevant aspects of culture and custom in resolving disputes more wisely. Therefore, the implementation of the *Al'adatul Muhakkamah* rule on the practice of sunrang is a very important factor in assessing the validity of the sunrang practice which is the object of dispute in the Bantaeng Religious Court decision. If the sunrang has been given, then it cannot be requested again, because the sunrang is fully owned by the wife as a sign of the man's sincerity towards the woman he married.³²

Although customary law is not specifically written in positive law, judges should not override customary law without providing strong legal reasons to support their decisions in challenging the customary law.³³ The relationship between judges and customary law must be based on cooperation and mutual respect. Cooperation and mutual respect between judges and customary law is important to ensure justice and legal certainty for all parties.

4. Conclusion

In the case of the dowry dispute in this study, local inspection and witness testimony played an important role in the evidentiary process. The implementation of the *Al'adatul Muhakkamah* rule on the practice of sunrang in Bugis customs was a key factor in the judge's decision. This research emphasizes the importance of combining customary traditions and Islamic legal principles to achieve justice in legal decisions. A novel contribution to this research lies in the in-depth analysis of the

³² Abdul Rahman Qayyum, & Rini Ekasari. (2020). Pemahaman Masyarakat terhadap Kedudukan Sunrang di Kecamatan Pallangga Kab. Gowa; Studi Perbandingan Hukum Adat dan Hukum Islam. *DOAJ (DOAJ: Directory of Open Access Journals)*, 2(1). <https://doi.org/10.24252/mh.v2i1.14294>

³³ Arasy Pradana A. Azis. (2019). *Kedudukan Keputusan Pengadilan Adat*. Hukumonline.com. <https://www.hukumonline.com/klinik/a/kedudukan-keputusan-pengadilan-adat-lt5d2bf896f3ec3>

judge's reasoning in rejecting the claim for compensation for the proceeds of land management of the dowry dispute, which demonstrates the urgency of considering customary and Islamic law together in similar cases. This research also highlights that although adat has great weight in determining the law, the principles of Islamic law should still be the top priority in legal decision-making. As a next step, it is recommended to conduct further research on the application of *Al-'adat al-Muhakkamah* in different regions, in order to understand the diversity of customs and their implications for the national legal system. In addition, wider socialization is needed so that the public and legal practitioners understand and apply this principle optimally in dispute resolution. Further research could also focus on developing more inclusive policies, accommodating local values within a broader legal framework.

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